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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/737,185

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EXAMINER

GAKH, YELENA G

ART UNIT

PAPER NUMBER

1743

MAIL DATE

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Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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20070403

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## Commissioner for Patents

Reply Brief filed on 02/06/07 is acknowledged. The examiner would like to make several comments to the Reply. Regarding 112, second paragraph, the Appellants' reference to In re Gordon regarding location of elements in a device, which can be critical, is not relevant to the instant application. In Gordon the location of the elements concerns structural relations between different parts of the same device, while in the instant application different locations are claimed for a group of identical vessels, which are irrelevant to their structure. Regarding the "wherein" clause, it is totally clear from the examiner's Office action that there was no question regarding patentability of such structural limitation as a wireless electronic memory tag attached to the vessel. The question was raised regarding locations of a group of vessels, which are not structurally limiting. Regarding claim 18, the method step requires "electronically storing data" without any reference as to which type of data (related to the vessel, to the sample, to the manufacturer, etc.) should be stored on the electronic tag, which renders the claim indefinite. The remaining Appellants' remarks were fully addressed in the Examiner's Answer of 01/30/07. There are a few comments related to the rejection over the prior art. Regarding rejection over Petrick, the Appellants' drawing shows a form (a label) and the electronic tag, with e.g. claim 12 reciting the label, and on page 3, line 20 of the specification the Appellants use the terms "forms" and "labels" as analogous. Therefore, there is no "teaching away" in Petrick's disclosure. The visibility of de-association of the tag from the form is not a critical part of Petrick's invention, contrary to the Appellants' statement, and is an obvious modification of the Appellants' invention for the reasons indicated by the examiner. As for Berney's reference, moving vessels with specimens from one place to another (from a bench to a patient to a test site) means transporting vessels, so the Appellants' questioning in regards to Berney's transportation of the vessels is unclear. As for a detachable support, the Appellants do not claim unattachable electronic tag, and "attachable" does not mean that the support is unattached during various manipulations with tubes. As for the Appellants' statement that "the tag is held to the test tube in fingers", the examiner is not quite sure, where the Appellants saw fingers in Berney's drawings.

  
Yelena G. Gakh